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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 DINGHUI DENG,

12 Plaintiff,

13 v.

14 SEATTLE MUNICIPAL COURT, et
15 al.,

16 Defendants.

17 CASE NO. C21-1316 MJP

18 ORDER DENYING MOTION TO
19 AMEND, DECLINING TO SERVE
20 AMENDED COMPLAINT, AND
21 DISMISSING ACTION

22 This matter comes before the Court on Plaintiff's Motion to Amend. (Dkt. No. 7.) The
23 Court has reviewed the proposed Amended Complaint and all supporting materials. The Court
24 DENIES the Motion. The Court declines to serve the Amended Complaint and DISMISSES this
25 action in full.

26 **BACKGROUND**

27 Plaintiff filed suit against eighteen individuals and entities. Plaintiff's allegations
28 primarily concern Miguel Rivera, his former husband with whom he has had a troubled
29 relationship. Plaintiff asserts claims against Rivera for libel, defamation, slander, identity theft,

1 fraud, assault, and intentional infliction of emotional distress. (Amended Complaint (“AC”) at
2 14, 21-48 (Dkt. No. 7 at 14, 21-48).) Plaintiff seeks monetary damages from Rivera.

3 Plaintiff also pursues claims for monetary damages against the Seattle Municipal Court,
4 King County Superior Court, and several judges arising out of several domestic violence
5 proceedings initiated against him that involve Rivera. (See AC at 16, 18-19, 41-45; AC
6 Attachment 2 (Dkt. No. 7-2 at 1.).) Plaintiff alleges that the judges in those matters denied
7 various motions and allowed for “invalid” service of a warrant by two Seattle Police officers.
8 (See AC at 16, 18-19, 41-45.) Plaintiff also alleges that one of the judges placed him in custody
9 for some time and ordered a competency evaluation. (Id. at 45.) And as to the police officers,
10 Plaintiff alleges that they “trespassed” when they served him with “court papers” and responded
11 to his 911 call in which he sought protection from Rivera. (Id. at 41.)

12 Plaintiff also brings claims against the “King County Attorney,” the Seattle City
13 Attorney, and Grace E. Zavidow, who is identified as an assistant City Attorney. The claims
14 appear to involve allegations of prosecutorial misconduct and failure to act on Plaintiff’s claims
15 that Rivera had engaged in illegal conduct.

16 Lastly, Plaintiff brings claims of “collusion” against Ildiko Baldwin, Csilla Travis,
17 Remington Yhap, Charlie Joe Wing, and Cristy Smith. (AC at 33-39 (Dkt. No. 7 at 33-39).)
18 Plaintiff appears to allege that these individuals submitted perjured declarations in support of
19 Rivera in the domestic violence proceedings against Plaintiff. (Id. at 15 (Dkt. No. 7 at 15).)

20 **ANALYSIS**

21 **A. Legal Standard**

22 Rule 8(a) of the Federal Rules of Civil Procedure (“Rule 8(a)”) requires Plaintiff’s
23 complaint to contain: (1) “a short and plain statement of the grounds for the court’s jurisdiction,

1 unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a
 2 short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a
 3 demand for the relief sought, which may include relief in the alternative or different types of
 4 relief.” Fed. R. Civ. P. 8(a).

5 To satisfy Rule 8(a) and for Plaintiff’s case to proceed, the Court must have jurisdiction
 6 over the claims he asserts. There are two primary ways the Court may have jurisdiction over
 7 Plaintiff’s claims: (1) through the Court’s “original” federal question jurisdiction; or (2) through
 8 “diversity” jurisdiction. First, the Court has “original jurisdiction of all civil actions arising under
 9 the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. This applies to
 10 Plaintiff’s claims that vindicate his rights conferred to him by the Constitution and federal law,
 11 but not state law. Second, the Court may have “diversity jurisdiction” over Plaintiff’s claims
 12 where there is complete diversity of citizenship between the plaintiff and named defendants and
 13 where the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332. This is the primary
 14 means by which a plaintiff may assert claims based on state laws. For purposes of this analysis,
 15 citizenship refers to the domicile of the party (i.e., where the person lives), not his/her residence.
 16 See Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001). Without either original
 17 federal question or diversity jurisdiction, the Court cannot generally exercise jurisdiction over
 18 the dispute, and it must be dismissed.

19 Additionally, because Plaintiff is proceeding in forma pauperis, the Court has the
 20 authority and obligation to dismiss “the case at any time if the court determines that . . . the
 21 action or appeal—(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be
 22 granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” See
 23 28 U.S.C. § 1915(e)(2)(B)(ii).

1 **B. Subject Matter Jurisdiction and Immunity**

2 The Court finds that Plaintiff's Amended Complaint cannot be served because it contains
 3 claims that are barred by judicial, prosecutorial, and qualified immunity, and because the Court
 4 lacks jurisdiction over the claims. The Court reviews the reasons for its conclusion.

5 First, the Court finds that Plaintiff's claims against the judges are barred by absolute
 6 immunity. Judges acting in their judicial capacity are entitled to absolute immunity from suit for
 7 money damages and cannot be sued for such damages. See Dennis v. Sparks, 449 U.S. 24, 27
 8 (1980). The Court broadly construes the scope of judicial immunity to ensure the public policy of
 9 having an independent and disinterested judiciary. See Ashelman v. Pope, 793 F.2d 1072, 1075
 10 (9th Cir. 1986). All of the Plaintiff's claims against the named judges identify acts that they
 11 undertook in their judicial capacity and for which Plaintiff seeks monetary damages. These
 12 claims cannot be pursued, even though they seek to vindicate federal rights. See id. Similarly,
 13 Plaintiff's claims against the Seattle Municipal Court and King County Superior Court must be
 14 dismissed because they are purely derivative of Plaintiff's claims against the judges who are
 15 entitled to judicial immunity. Plaintiffs' claims against the courts and judges are dismissed with
 16 prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii).

17 Second, Plaintiffs claims against the "King County Attorney," Seattle City Attorney, and
 18 Zavidow must be dismissed because of prosecutorial immunity. "Prosecutors are . . . entitled to
 19 absolute immunity from section 1983 claims." Ashelman, 793 F.2d at 1075. Here, Plaintiff's
 20 claims against the prosecutors seek to vindicate various federal constitutional rights through 42
 21 U.S.C. § 1983 (also referred to as "section 1983"). These claims are barred by prosecutorial
 22 immunity and cannot be saved by further amendment. The Court dismisses these claims with
 23 prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii).

1 Third, Plaintiff's claims against the two officers are barred by qualified immunity. Under
 2 the doctrine of qualified immunity, officers cannot face liability for damages when "their
 3 conduct does not violate clearly established statutory or constitutional rights of which a
 4 reasonable person would have known." Pearson v. Callahan, 555 U.S. 223, (2009) (citation and
 5 quotation omitted). Taking the allegations as true, Plaintiff states that on January 23, 2021, he
 6 called 911 to report a break-in by Rivera, and that "police officers didn't do anything about the
 7 br[ea]k in, [but] they trespassed into the room to serve me the court paper." (AC at 41 (citing to
 8 Attachment 2 and Police Report.) While Plaintiff alleges the officers accessed his room without
 9 permission, he also admits he invited the police officers into his home by calling 911 and ask for
 10 assistance. Plaintiff cannot pursue a claim of trespass when he invited the officers into his home.
 11 See Theofel v. Farey-Jones, 359 F.3d 1066, 1073 (9th Cir. 2004) ("A defendant is not liable for
 12 trespass if the plaintiff authorized his entry."). Even if the officers were uninvited, they are
 13 entitled to qualified immunity from a claim of trespass because officers may enter a residence to
 14 serve a valid arrest warrant without violating the citizen's Fourth Amendment rights. See United
 15 States v. Gooch, 506 F.3d 1156, 1159 (9th Cir. 2007). Nowhere has Plaintiff alleged any basis to
 16 conclude that the "court paper" (which the Court construes to refer to a warrant) was invalid or
 17 why the officers knew or should have known it was. The Court finds the officers are entitled to
 18 qualified immunity from these claims. See id. And because the claims against the Seattle Police
 19 Department are derivative of the claims against the officers who are entitled to immunity, the
 20 Court find the claims against the Department cannot be pursued. The claims against the officers
 21 and Department must be dismissed with prejudice under 28 U.S.C. § 1915(e)(2)(B)(iii).

22 Fourth, the Court lacks jurisdiction over Plaintiff's claims against Rivera, Baldwin,
 23 Travis, Yhap, Wing, and Smith. Plaintiff claims that these individuals engaged in "collusion"
 24

1 and submitted false statements. These claims arise under state law, not federal law. That means
 2 that the only way the Court could have jurisdiction over these claims is under “diversity
 3 jurisdiction.” See 28 U.S.C. § 1332(a). Diversity jurisdiction requires that Plaintiff live in a
 4 different state than all of the defendants. But as Plaintiff admits he and several of these
 5 individuals live in the same state—Washington. (See AC at 13 (“Most of the defendants are
 6 citizens of different States, only two of them [are] resident[s] in this State.”).) As such, the Court
 7 does not have diversity jurisdiction over these claims. This defect cannot be saved through
 8 amendment. The Court dismisses the claims against these individuals without prejudice, but
 9 notes that these claims cannot be saved through amendment.

10 **CONCLUSION**

11 Having considered the voluminous filing and supporting materials, the Court DENIES
 12 Plaintiff’s Motion to Amend and declines to serve the Amended Complaint. The Court finds that
 13 Plaintiff’s claims against the named judges, courts, prosecutors (individuals and offices), police
 14 officers and Seattle Police Department are barred by various immunities from suit. Pursuant to
 15 28 U.S.C. § 1915(e)(2)(B)(iii), the Court DISMISSES these claims with prejudice. And because
 16 the Court lacks jurisdiction over Plaintiff’s claims against Rivera, Baldwin, Travis, Yhap, Wing,
 17 and Smith, the Court DISMISSES these claims without prejudice. And the Court finds that leave
 18 to amend the claims against Rivera, Baldwin, Travis, Yhap, Wing, and Smith would be futile
 19 given the defects in diversity jurisdiction. The Court therefore DISMISSES this action in full and
 20 directs the Clerk to enter judgment consistent with this Order.

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The clerk is ordered to provide copies of this order to Plaintiff and all counsel.

Dated December 17, 2021.

Wesley Pekola

Marsha J. Pechman
United States Senior District Judge